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**THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA - BAKERSFIELD DIVISION**

FULL SPECTRUM IH, LLC, a Florida
limited liability company;

Plaintiff,

vs.

DCM, INC., a Nevada corporation;
LIBERTY NOVELTY, INC., a Maryland
corporation; ALIRAZA JIVAN, an
individual; ALFIA JIVAN, an individual;
and DOES 1 through 10, inclusive,

Defendants.

Case No.: 1:20-cv-00673-DAD-JLT

**DECLARATION OF MICHAEL
LAGNESE IN SUPPORT OF
PLAINTIFF'S OPPOSITION TO
DEFENDANTS' MOTION TO SET
ASIDE ENTRY OF DEFAULT**

[Filed concurrently with the Opposition to Defendants' Motion to Set Aside Entry of Default, Declaration of Benson K. Lau, Esq., Request for Judicial Notice, Evidentiary Objections to Declaration of Reza I. Gharakhani, Esq., Evidentiary Objections to Declaration of Aliraza Jivan, Evidentiary Objections to Declaration of Alfia Jivan, Evidentiary Objections to Declaration of Alejandra Duran, and Evidentiary Objections to Declaration of Minor "AJ"]

Hearing: September 10, 2020; 9:30 a.m.
Judge: Hon. Jennifer L. Thurston
Location: United States Courthouse, 510
19th Street, Suite 200,
Bakersfield, CA 93301

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I, Michael Lagnese, hereby declare pursuant to 28 U.S.C. § 1746 as follows:

1. I am the Chief Executive Officer of Plaintiff FULL SPECTRUM IH, LLC (“Full Spectrum”). I am over the age of eighteen (18) years, and declare and affirm that the foregoing is true and correct. I have personal knowledge of all statements made herein based upon my duties and based upon my review of the books and records maintained by Company in the ordinary course of business that relate to this matter.

2. In October 2019, I entered into negotiations with Aliraza Jivan for the purchase and sale of industrial hemp from my company, Full Spectrum, to his company, DCM.

3. Mr. Jivan informed me that if Full Spectrum could manufacture¹ and supply 3,500 lbs. of industrial hemp of a particular strain and quality specified by DCM (the “Product”) over a two-month period, DCM would purchase the Product over a two-month period for a total sum of \$560,000.00 (the “Purchase Price”) payable in seven (7) weekly installments of \$80,000.00 beginning on November 8, 2019 and concluding on December 20, 2019.

4. Mr. Jivan acknowledged that he understood the Product was perishable because of its organic nature and that timely sale and delivery of the Product was of the utmost importance. Mr. Jivan assured me that DCM would have no problem fulfilling its weekly purchase obligations and that DCM had the financial wherewithal to perform.

5. In light of Mr. Jivan’s representations and promises, I executed the Industrial Hemp Purchase Agreement on behalf of Full Spectrum with DCM on November 7, 2019 (the “Contract”).

6. After DCM failed to fulfill its obligations under the Contract by failing to purchase the full second installment of Product on November 15, 2019, Mr. Jivan began to make excuses for DCM’s failure to perform and kept assuring me that

¹ The hemp requested by Mr. Jivan was in “buck flower” form which meant that Full Spectrum needed have it processed and trimmed for DCM before delivery.

1 payment for the next installment would be forthcoming. It never did.

2 7. This dragged on into the following year as I kept believing Mr. Jivan's
3 repeated promises and assurances that payment was forthcoming.

4 8. My company incurred significant costs in preparing Product for delivery
5 to DCM. Instead, the remaining Product sat in storage where it began to decay and lose
6 commercial value.

7 9. On March 31, 2020, it became clear to me that Mr. Jivan was simply
8 stringing me along and had no intention of performing under the Contract when he
9 attempted to blame COVID-19 as the reason for DCM's failure to perform.
10 Unfortunately, by this time, the Product could not easily be resold to any other buyers
11 in its condition. I was unable to sell any of it. Currently, the remaining Product that
12 DCM failed to purchase is still in storage and in unsalable condition. Attached hereto
13 as Exhibit "A" are true and correct copies of my text message exchanges with Mr. Jivan
14 regarding the Contract from January 7, 2020 to April 2, 2020.

15 I declare under penalty of perjury that the foregoing is true and correct.

16 Executed on August 27, 2020 at Los Angeles, California.

17 /s/ Michael Lagnese (original signature
retained by attorney Benson Lau)

18 _____
19 Michael Lagnese, Chief Executive
20 Officer of Full Spectrum IH, LLC
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EXHIBIT A

iMessage with (240) 205-3112
1/7/20, 2:39 PM

Can I call you later?

I ll call u in 30 minutes with a definite date sir

Thank you

1/8/20, 12:12 PM

Ali, do we have an update?

Friday

1/8/20, 4:08 PM

Ok. ive arranged shipping for 1000 lbs on Friday.
When will payment post?

1/10/20, 9:32 AM

Ali, the shipment is scheduled to go out today for
delivery, please advise on the wire transfer

1/10/20, 2:06 PM

Ali, please update me sir.

1/10/20, 4:12 PM

Sir your account transfer will get through
Monday Tuesday will push for more deliveries
next week

1/10/20, 5:40 PM

Thank you Ali. I hope you have a nice weekend
and I'm looking forward to making this a
prosperous relationship

1/13/20, 11:40 AM

Good morning. Which account is the wire
transfer posting to?

1/13/20, 4:40 PM

Good evening Ali. I know you're on East Coast so
I'm assuming the time change has effected the
distribution of funds. Please confirm it will be
sent first thing in the morning. Many thanks.

1/14/20. 7:16 AM

Good morning. I have shipping arranged for this afternoon pending wire. Same delivery address as before?

1/14/20, 9:11 AM

Yes

Thank you please confirm once wire is sent

1/14/20, 1:31 PM

Ali, no wire received

Please advise

1/14/20, 7:58 PM

Sir will call in morning

1/15/20, 11:27 AM

Ali what is happening?

1/16/20, 10:32 AM

Good morning what's going on has the wire been sent?

Can u let me pick 40000 shipments I could pick them every 3 days and this is for 3 weeks only

Will pay packing up charge

Please call me I don't understand.

1/16/20, 1:22 PM

Ali please call

1/17/20, 11:41 AM

Ali did you receive my email?

1/21/20, 7:23 AM

Good morning Ali, please confirm you're sending the wire

1/21/20, 9:29 AM

Yes sir it's on my notes

Thanks and please reply confirming the new delivery schedule

1/21/20, 5:36 PM

Ali no wire posted today.

Also send me address for cigarettes

1/22/20, 7:02 AM

2035 Day Road Hagerstown Md

Ali, what address would you like the cigarettes sent to?

No wire posted yesterday. Please advise.

thank you

1/22/20, 10:33 AM

Can I call you later?

Yes. Just wanted to get you while there is still time to send wire because nothing has posted

Yes there is time

ok. I have transportation scheduled for today as discussed but I cannot send without payment

Don't worry

1/23/20, 11:49 AM

Ali, wires received thank you. Shipment is arriving tomorrow.

Thanks

1/23/20, 8:41 PM

Sir tried to call u need to get this flower of your need your minimum help
Running into brick walls and very greedy individual s and schemers
U have been a great find sir
Will need your input in the following to make 2020 a great successJeff. No n n n Mann nnn for both u and me

Cigarette name and packaging consider us as
your partners in all your hemp ventures
Flower Sops
Rehydration ,Moon rocks etc

When can I call u would like to get done with this
3000 lbs in 45 days Have orders please we can
do very well with a joint venture still being vendor
and buyer

1/24/20, 9:47 AM

Ok Ali

Let me know when you'd like to talk. I'm in
meetings throughout the day

I sent you the cigarettes

I ll check ups

When can we talk

have you received?

im available at 11am PT

otherwise later tonight

1/27/20, 3:40 PM

Ali did you get the cigarettes?

Also the next wire never went through

Status?

We have new wiring instructions for our BOA
account

Ok I ll check in morning

Thank you

1/28/20, 8:00 AM

Good morning.

1/28/20, 7:16 PM

How are u

Very bad day sir little one in hospital dayafter I ll pick shipping

1/29/20, 6:17 AM

Ali I'm very sorry to hear that. I hope everything works out ok

1/29/20, 11:56 AM

Any updates?

1/29/20, 6:01 PM

Yes sir can I call

I'm at dinner but I can tak for 5

No worries 😊 tomorrow morning

Cigarettes are good

Nice

I have great branding as well

Almost done

2/4/20, 1:31 PM

None of the wires have come thru

Please advise

Give me a day

2/5/20, 9:52 AM

Ok so wire tomorrow?

2/6/20, 7:39 AM

Ali is the wire VO I g today

Coming today

2/6/20, 2:53 PM

good morning Ali. Nothing was wired today FYI. Ill let you know about tomorrow.

2/7/20, 9:01 AM

Good morning Ali.

.....

Which account are you wiring to.

2/10/20, 8:26 AM

Good morning Ali

Can I expect the wire this morning?

2/10/20, 11:14 AM



Mojave_SemiFinal_Proof

2/11/20, 8:19 AM

Ali Once again I'm Chasing you for updates.
Please communicate with me.

2/11/20, 3:26 PM

Can I call you later?

Please

2/12/20, 9:37 AM

Ali. At this point you're leaving me with few options.

Please call.

I know but give me till evening

I have arranged a 100 k for u

2/13/20, 9:55 AM

Is the Wire coming today?

2/17/20, 1:27 PM

Ali

2/25/20, 11:15 AM

Do you have any intention of fulfilling the contract?

3/2/20, 10:02 AM

Ali, Alexander said you are taking 500lbs this week.

I need to send him terpene lists

3/2/20, 5:13 PM

We could also make them prerolls

3/2/20, 7:25 PM

Am still waiting

We will need to discuss it tomorrow, terp infusion isn't something we normally do and I want to get it right

Ok dkne

3/3/20, 4:05 PM

Ali, I need 500 ml of terps to do 500 lbs.

3/3/20, 5:40 PM

Ok

So I ll do 4 strains

Great

Please send to 2924 E Belle terrace, Bakersfield CA 93307

Ooh thanks will do tomorrow

3/4/20, 4:27 PM

did the terpenes ship?

Tomorrow they will

3/4/20, 6:16 PM

Sounds good

I ordered all the equipment to do the terpene infusion

3/4/20, 7:44 PM

Great sir j will see wire tomorrow will ship u (pallets of jars

Ill call you tomorrow. I'm not certain on the jarring. Sounds like your labor would be much cheaper.

But I feel confident on the terps.

Ok

3/5/20, 6:27 AM

How much were you paying for jarring? \$.17 per jar?

3/9/20, 2:19 PM

Did you send terps?

3/9/20, 6:21 PM

Yes sir I ll call them again tomorrow

3/10/20, 10:21 AM

thank you. We have hired an organic chemist and built out a specialized system for terpene infusion

3/10/20, 7:00 PM

Alternatively I could charge you a price per pound and purchase the terps

Yes can I call u in morning

Yes. I'll be free from 7-8am

Thanks

3/11/20, 4:36 PM

Can I call you later?

I'm getting on a plane

call you back in a minute!

3/13/20, 10:41 AM

Ali can you please send over the tracking information

3/13/20, 7:31 PM

no terps arrived

3/14/20, 8:09 AM

can you send the tracking?

3/14/20, 10:42 AM

Sir It will be at your place a Friday

You mean next Friday?

I hired someone to start working Monday to start terp infusion because you said it would be here on Friday meaning yesterday

please call me so I can have a clear understanding and stop wasting my money

3/17/20, 4:58 PM

Sir am working with tryrcterpenes

have you ordered yet? What are you paying? I may be able to do better.

3/18/20, 6:37 AM

Ali call me this morning please.

Sure did give me few in shower and then quarantined as per governor yesterday

3/24/20, 2:09 PM

Can I call you later?

Yes. When?

3/25/20, 3:01 PM

I can't understand you.

Call me

what happened?

My network is very bad

ok. should we reschedule for later this evening?

Give me a price Michael and how it's going to work

3/30/20, 11:22 AM

Good morning buddy what Turpines do you want to use?

3/30/20, 1:34 PM

Can I call you later?

3/31/20, 10:49 AM

Can I call you later?

Yes of course but you never do. I don't know what to do anymore Ali. At this point if we don't move forward by end of day tomorrow I'm gonna have to proceed with Enforcing the terms of our contract. I've done everything I can to try to work with you and I just can't keep banging my head against a wall. Please send over the terpene list and the \$40,000.

3/31/20, 5:56 PM

I'm in the car for another 20 minutes

3/31/20, 7:17 PM

I don't want to go that route Either but I can't keep playing this game, and remember You broke the contract long before this virus. I do have litigators on retainer. If we can find a way forward, even at a smaller amount I will work with you. But I keep putting time and money in based on your directions only to be met with silence. Let's talk tomorrow morning and see if we can figure it out.

Yes we will but look at it our way we have orders we spent money to market this product

Then miss corona came along I am fighting to stay open for ever not just for 1 day I have to make some very conservative and balanced moves not hurting either vendors or employees

4/1/20, 8:34 PM

I tried calling you

I need a good faith deposit

4/1/20, 9:07 AM

4/2/20, 8:27 AM

?

4/2/20, 5:07 PM

So this is it?

I will accept a good faith payment otherwise this is the last time i'm going to communicate before proceeding with litigation to compensate me for the damages I incurred processing your flower per the contract.

Sir y show us a good faith effort what can u do as a company for us during crisis time

If I pay u x amount of dollars what will u bring to the table

Believe me sir if u have a lawyer who says he could benefit u a dollar at this time this period of natural disaster he is smoking

If u are a smart business Man U will see the writing on the wall

Cbd flower is not an essential that people need so our sales will be slow

this has nothing to do with this crisis. This has to do with the last 6 months

U and me as smart guys need to get over this time in the world economy smartly and efficiently

im going into a conference

Delivered

I cannot teach u business but come up with some thing to help us and I ll match u \$\$\$ to \$\$\$

But I need u to do that